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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/762,586 | 02/09/2001 | Toshiaki Furuhashi | 0649-0774P | 5716 |

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EXAMINER

TRAN LIEN, THUY

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 01/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

| | |
|-------------------------------|----------------------------------|
| Application No. 09/762,586 | Applicant(s) Furuhashi et al. |
| Examiner Lien Tran | Art Unit 1761 |



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply:

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Oct. 25, 2001

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-15 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-15 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____

16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) Other: _____

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1. The amendment filed Oct. 25, 2001 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The insertion on page 5 line 24 stating "In addition, because the dough layers are thick, the taste becomes hard and shows no crispiness". The insertion on page 10 line 16 changing (62) to "64". The insertion on page 18 line 4 changing (8) to "80g" and (55) to "550g". The same problem is noted with the insertion on page 20 lines 5 and 7.

Applicant is required to cancel the new matter in the reply to this Office action.

2. Claims 12-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, the phrases "high temperature and short period of time" are indefinite because they are relative phrases. What would be considered as high temperature and short period of time?

Claim 14 has the same problem as claim 12.

3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yong et al.

Yong et al disclose a method of making a refrigerated dough product. Yong et al teach two methods of incorporating a leavener into the dough when forming a laminated dough. The laminated dough has alternating layers of flour/water matrix and shortening. The number of layers of shortening interspersed within the flour/water matrix can vary from 4 to 1000. When

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using a lamination process the leavener can be incorporated by sprinkling one or both of leaveners onto the shortening after it is applied to a surface of the flour/water matrix and prior to laminating the shortening and leavener into the dough. A still further method of incorporating leaveners is to sprinkle one or both of the leaveners on the flour/water matrix or dough. When using this method, the shortening can be incorporated by lamination. The density of dough after proofing in the containers is between about 1.15g/cc and about .61g/cc. Some of the leavening agent remains unreacted. (See col. 8-10)

Yong et al do not disclose the dough is a pie dough, freezing the dough and the gas yield.

There is no standard of identity defined for the pie dough as claimed. The dough disclosed by Yong et al contains the same ingredients such as cereal flour, water and a fat as claimed; thus, it can be considered a pie dough. The dough disclosed by Yong et al also has alternating layers of dough and fat resulting from the lamination process. The leaveners in the Yong et al dough is applied in the same way as the claimed method; thus, it is obvious the dough will have voids and chemical leavening agent between the dough and fat layers. It is also expect the gas yield of the dough will be similar to the one claimed because the amount of leavening agent used in the claimed dough as disclosed on page 20 of the specification is within the range of the amount used by Yong et al as disclosed on column 7. While Yong et al teach to refrigerate the dough, it would have been obvious to one skilled in the art to freeze the dough for longer storage as it is well known that a product is kept for a longer period of time in frozen condition than in refrigerated condition. As to putting a filling on the dough product, it would have been

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obvious to do so to obtain different flavor and taste. As to baking as a high temperature for a short period of time, it is not known what will be considered as high temperature and short period of time. It would have been obvious to one skilled in the art to determine the appropriate baking temperature and time depending on the type of oven used, the type of dough to be baked and the degree of baking desired.

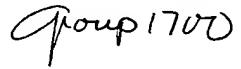
4. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is (703) 308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

January 4, 2002


LIEN TRAN
PRIMARY EXAMINER


Group 1700